

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 2, 7-8, 14, 17, 22-23, 29, 34-35, and 41 are cancelled. Claims 1, 3-6, 9-13, 15-16, 18-21, 24-28, 30-33, 36-40, and 42 remain in this application and, as amended herein, are submitted for the Examiner's reconsideration.

The specification has been amended to correct minor grammatical errors. No new matter has been added by these amendments.

In the Office Action, the Examiner rejected claims 1-10, 13-14, 16-25, 28-37, 39, and 41 under 35 U.S.C. §102(e) as being anticipated by Takeda (U.S. Patent Application Publication No. 2002/0064180). Claims 2, 7-8, 14, 17, 22-23, 29, 34-35, and 41 are cancelled. It is submitted that the remaining claims are patentably distinguishable over Takeda.

The Takeda publication shows, in Fig. 1, a receiving apparatus that receives transmitted packets that include an MPEG2 transport stream, separates bandwidth information from the packets, and then sends the transport stream of the packets to a recording apparatus. (See paragraphs [0105]-[0106] and [0117]). The recording apparatus then determines the recording rate of the transport stream based on a "leak rate" of the transport stream, and records the transport stream at this recording rate. The receiving apparatus also monitors the "leak rate" of the transport stream, and if the leak rate of the transport stream exceeds the recording rate of the recording apparatus, the receiving apparatus outputs a signal that directs the recording apparatus to stop recording or to vary the recording rate. (See paragraphs [0109] and [0118]-[0119]). Further, the recording apparatus uses the separated bandwidth information to determine whether the data stream is an SD video signal or an HD video signal, and when the received data changes from the SD video

signal to the HD video signal or from the HD video signal to the SD video signal, the receiving apparatus directs the recording apparatus to stop recording or to change the recording rate. (See paragraph [0120]).

The Examiner contends, in the paragraph regarding the cancelled claim 2, that Takeda discloses that the recording rate setting command generating means generates the recording rate setting command when the recording apparatus is connected to the digital broadcast receiver through the interface means, and the Examiner refers to page 9, paragraph [0120] of Takeda. However, Takeda merely describes that when the leak rate of the transports stream exceeds the recording rate or when the received data changes its video signal type, the processing means of the receiving apparatus directs the recording apparatus to stop recording or to change the recording rate. The publication does not disclose or suggest transmitting a recording rate setting command to the recording apparatus when a connection between the recording apparatus and the interface means is initiated.

The Examiner also contends, in the paragraph regarding cancelled claim 7, that Takeda discloses that the recording rate setting command generating means periodically generates the recording rate setting command according to a predetermined period, and the Examiner refers to page 9, paragraph [0121] of Takeda. However, the cited paragraph of the publication is only concerned with the transmission of *packets*. Further, the cited paragraph is only concerned with transmission from the *transmitting apparatus* to the *receiving apparatus* rather than transmission from the *receiving apparatus* to the *recording apparatus*. Takeda does not disclose or suggest, either at paragraph [0121] or elsewhere, transmitting the recording rate setting command to the *receiving apparatus* periodically at predetermined intervals.

Further, the Examiner contends, in the paragraph regarding the cancelled claim 8, that the recording rate setting command generating means periodically generates the recording rate setting command when a request command is received from the recording apparatus. However, as described above, Takeda only describes that the receiving apparatus directs the recording apparatus to stop recording or to change the recording rate when the *leak rate* of the transport stream *exceeds the recording rate* or when the received video signal type changes. The publication neither discloses nor suggests transmitting a recording rate setting command to the recording apparatus when a request command is received from the recording apparatus.

Therefore, Takeda does not disclose or suggest:

recording rate setting command generating means for generating a recording rate setting command on the basis of the information corresponding to the transmission rate and for transmitting the recording rate setting command to the recording apparatus through said interface means when a connection between the recording apparatus and said interface means is initiated, when a request command is received from the recording apparatus, or periodically after predetermined intervals

as called for in claim 1.

It follows that Takeda does not disclose or suggest the combination called for in claim 1 and does not anticipate the claim.

Claims 3-6 and 9-10 depend from claim 1, and each further defines and limits the invention set out in the independent claim. It follows that claims 3-6 and 9-10 are each distinguishable over Takeda for at least the same reasons.

Independent claim 13 is directed to a recording apparatus that includes:

generating means for generating a request command for setting the recording rate and for transmitting

the request command to the digital broadcast receiver through said interface means; and

recording rate setting means for setting a recording rate of said recording means in accordance with a recording rate setting command received from the digital broadcast receiver through said interface means in response to the request.

Claim 13 is therefore distinguishable over Takeda for at least the reasons described above regarding claim 1.

Independent claim 16 relates to a data recording method for use in a digital broadcast receiver that includes generating and transmitting steps similar to those carried out by the recording rate setting command generating means defined in claim 1. It follows that claim 16 is patentably distinguishable over the Takeda publication at least for the same reasons.

Claims 18-21 and 24-25 depend from claim 16 and are therefore distinguishable over the cited reference for at least the same reasons.

Independent claim 28 defines a digital broadcast receiver that includes:

a processor operable to generate a command that sets a recording rate as a function of a transmission rate of the transport stream, to transmit the command to the recording apparatus through said interface when a connection between the recording apparatus and said interface is initiated, when a request command is received from the recording apparatus, or periodically after predetermined intervals, and to transmit the transport stream to the recording apparatus through said interface, whereby the recording apparatus records the transport stream in accordance with the set recording rate.

Therefore, at least for the reasons described above regarding claim 1, claim 28 is patentably distinguishable over Takeda.

Claims 30-33 and 36 depend from claim 28 and, for at least the same reasons, are distinguishable over the cited art.

Independent claim 39 relates to a recording apparatus that includes:

a processor operable to transmit a request for a command to the digital broadcast receiver through said interface and to set a recording rate of said recorder in accordance with a recording rate setting command received from the digital broadcast receiver through said interface in response to the request.

Claim 39 is therefore patentably distinguishable over the Takeda reference at least for the reasons described above regarding claims 1 and 13.

Accordingly, the withdrawal of the rejection under 35 U.S.C. § 102 is respectfully requested.

The Examiner also rejected claims 11-12, 15, 26-27, 38, 40 and 42 under 35 U.S.C. §103(e) as being unpatentable over Takeda. However, claims 11-12 depend from claim 1, claim 15 depends from claim 13, claims 26-27 depend from claim 16, claims 38 and 40 depend from claim 28, and claim 42 depends from claim 39. Therefore, each of claims 11-12, 15, 26-27, 38, 40 and 42 is patentably distinguishable over the Takeda publication for at least the same reasons described above regarding the parent claims.

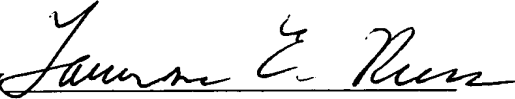
Accordingly, the withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

Lawrence E. Russ

Registration No.: 35,342

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

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